

APR 25 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

John Lewis GERHOLT SR.
Plaintiff

V. S.

Civil action - Law
Case No.

3:13-CV-7-KRG-KAP

W.D.P.A.

INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES

The County of Bedford pa. 15522

Donald Orr Jr.

Warden

Ronald Leidy

Correctional officer

James Baker

Correctional officer

Lieutenant Clipper

Correctional officer

Eugene D. Downy

Treatment Specialist

Prime Care Medical

Medical Care Department

AMENDED COMPLAINT

INTRODUCTION

This is a Civil action filed by John Lewis GERHOLT SR. a state prisoner for damages and injunctive relief under 42 U.S.C. § 1983. Alleging excessive use of force and denial of medical care in violation of the Eighth Amendment to the United States Constitution and denied a hearing in violation of the due process clause of the Fourteenth Amendment to the Constitution. The Plaintiff also alleges the torts of Assault and battery and negligence.

JURISDICTION & VENUE

- 1.) This is a Civil action Authorized by 42 u.s.c. Section 1983 to redress the deprivation under Color of Law of rights Secured by the Constitution of the United States. The Court has Jurisdiction under 28 u.s.c. Section 1331 and 1343 (a) (3). Plaintiff declaratory relief pursuant to 28 u.s.c. Section 2201 and 2202. Plaintiff's Claims for Injunctive relief are Authorized by 28 u.s.c. Section 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.
- 2.) The United States District Court of the Western District Court is an appropriate Venue under 28 u.s.c. Section 1341 (b) (2) because it is where the events giving rise to this claim occurred.

Parties

- 3.) Plaintiff, John Lewis GERHOLT SR. is and was at all times mentioned herein a prisoner of the state of Pennsylvania in the Custody of the Pennsylvania D.O.C. HE is currently Confined in SCI - Graterford, in Montgomery Pennsylvania.
- 4.) Plaintiff, John Lewis GERHOLT SR. was incarcerated at Bedford County Correctional Facility during the events described in this Complaint.

- 5.) Defendant, Donald Orr, Jr. (Warden) and is employed at Bedford County Correctional Facility, located at 425 Intertown Road, Bedford County, Pa. 15522
- 6.) Defendant, Ronald Leidy, is a Correctional officer at Bedford County Correctional Facility, located at 425 Intertown Road, Bedford County, Pa. 15522.
- 7.) Defendant, James Baker, is a Correctional officer at Bedford County Correctional Facility, located at 425 Intertown Road, Bedford County, Pa. 15522
- 8.) Defendant Lieutenant Clipper, is a Correctional officer at Bedford County Correctional Facility Located at 425 Intertown Road, Bedford County, Pa. 15522
- 9.) Defendant, MR. Eugene D. Downy, is a Treatment Specialist at Bedford County Correctional Facility Located at 425 Intertown Road, Bedford County, Pa. 15522
- 10.) Defendant, Prime Care Medical Care is the Correctional Facility medical provider at Bedford County Correctional Facility, located at 425 Intertown Road, Bedford County, Pa. 15522

- 11.) Defendant, The County of Bedford pa. 15522 in charge of the County of Bedford pa. is the County Commissioner's office, located at 200. South Juliana Street, Bedford County Court House, Bedford pa. 15522
- 12.) Defendant, The County of Bedford pa. 15522, is responsible for the actions of, Defendants, MR. Donald ORR JR - MR. Ronald Heidt - MR. James Baker - MR. Eugene D. Downer - Lt. Clipper - prime Care medical. at the Bedford County Correctional Facility located at 425 Imbertown Road, Bedford pa. 15522 Defendant were all employed through the Bedford County Commissioner's office pa. 15522
- 13.) Defendant, Donald ORR JR. (Warden) Resident at Box 37, Hyndman, PA. 15545, is the Warden of Bedford County pa. Correctional Facility and is responsible for keeping the peace within the prison as well as reviewing all administrative appeals of disciplinary charges filed by Bedford County inmates, HE is being sued in his individual and official Capacities.

- 14.) Defendant, Mr. Ronald Leidy, is in fact a Correctional officer at Bedford County Correctional Facility. Located at 425 Imbertown Road Bedford Pa. 15522, is responsible for reporting any assaults and battery as well as negligence that occurred this including any allegations involving the warden, the Defendant is being sued in their individual and official Capacities.
- 15.) Defendant, Mr. James Baker, is in fact a Correctional officer at Bedford County Correctional Facility, Located at 425 Imbertown Road Bedford Pa. 15522, is responsible for reporting any assaults and battery as well as negligence that occurred this including any allegations involving the warden, the Defendant is being sued in their individual and official Capacities
- 16.) Defendant, Mr. Clipper-Lieutenant - is in fact a Correctional officer at Bedford County Correctional Facility, located at 425 Imbertown Road Bedford Pa. 15522. is responsible for reporting any assaults and battery as well as negligence that occurred this including any allegations involving the warden, the Defendant is being sued in their individual and official Capacities

- 17.) Defendant, MR. Eugene D. Downey, is in fact a Treatment Specialist, at Bedford County Correctional Facility, located at 425 Intertown Road, Bedford Pa. 15522, is responsible for reporting any assaults and battery as well as negligence that occurred this including any allegations involving the Warden, the Defendant is being Sued in their individual and official Capacities.
- 18.) Defendant, Prime Care medical, is in fact Bedford County Correctional Facility medical provider, at 425 Intertown Road Pa. 15522 is responsible for Treatment to the inmates as well as reporting any assaults and battery as well as negligence that occurred including any allegations involving the Warden, the Defendant is being Sued in their individual and official Capacities.

FACTS

- 19.) on May 15, 2012. Plaintiff was sleeping in his Cell. Defendant, Mr. Donald Orr Jr. (Warden) entered Plaintiff's cell and began yelling at Plaintiff to wake up, Plaintiff failed to respond due to the medication prescribed by medical staff. Defendant, Mr. Donald Orr Jr. (Warden) proceeded to poke Plaintiff viciously in the chest with his fingers.
- 20.) once Plaintiff awoke, Defendant, Mr. Donald Orr Jr. (Warden) had his hands around Plaintiff's throat this choking Plaintiff to the point Plaintiff collapsed and hit his head against the metal bed and against the concrete wall, Plaintiff suffered lacerations to the right side of his head and a concussion causing his vision to be effective.
- 21.) Plaintiff, experienced excruciating pain that continues to go through his neck and shoulders as well as nonstop headaches.
- 22.) Defendant, Mr. Donald Orr Jr. (Warden) told Plaintiff during his vicious attack that the District Attorney William Higgings Jr. told Defendant, Mr. Donald Orr Jr. (Warden) to take matters into his own hands and have Plaintiff stop writing the District Attorney's office as well as the Huntington State police, with Plaintiff's problems, or there would be more

- 23.) Defendant, Mr. Donald Orr Jr. (Warden) also told the Plaintiff during this vicious attack he and the District Attorney Mr. William Higgins Jr. would see to it the Plaintiff would spend the rest of his life in prison whether Plaintiff was guilty or not of the charges filed by the District Attorney.
- 24.) Defendant, Mr. Donald Orr Jr. (Warden) then realized Plaintiff's Cell-mate was standing at the Cell-Door during this vicious attack. Defendant then told Plaintiff's Cell-mate to leave and not to mention to anybody about what he'd seen, if he knew what was good for him.
- 25.) Defendant, The County of Bedford per-
% Bedford County Commissioner's Office recieved a letter dated May 18, 2012, about the vicious attack against Plaintiff, from Defendant, Mr. Donald Orr, Jr. (Warden) the Complaint vetted no reply.
- 26.) Defendant, Mr. Ronald Leidy, admitted to the Plaintiff on January, went Plaintiff returned to Bedford for a hearing on January 15th 2013, that he spoke to the Defendant, Mr. Donald Orr, Jr. (Warden) after this vicious attack to Plaintiff, however Defendant, Mr. Ronald Leidy said he refused to report the vicious attack, due to the fact of losing his Job. by Defendant, Mr. Donald Orr, Jr. (Warden)

- 27.) Defendant, Mr. James Baker, admitted to the Plaintiff on January, when Plaintiff returned to Bedford for a hearing on January 15th 2013 that he spoke to the Defendant, Mr. Donald Orr, Jr. (warden) after this vicious attack to Plaintiff, however Defendant, Mr. James Baker, said he refused to report the vicious attack due to the fact of losing his job by Defendant, Mr. Donald Orr, Jr. (warden)
- 28.) Defendant, Mr. Clipper, Lieutenant, was given a request to be interviewed by Bedford State Police by Plaintiff, he refused to report this information to Bedford State Police, due to the fact of losing his job by Defendant, Mr. Donald Orr, Jr. (warden)
- 29.) Defendant, Prime Care Medical, the medical staff failed to report this vicious attack to the proper authority's once Plaintiff was seen.
- 30.) Defendant, Mr. Eugene D. Downy, Treatment Specialist was told by the Plaintiff about this vicious attack, he advised Plaintiff to write the County Commissioner's Office in Bedford pa. he then said he'd heard already about this vicious attack, but he refused to report it due to the fact of losing his job by Defendant, Mr. Donald Orr Jr. (warden)

- 31.) The Plaintiff, was sentenced on August 21, 2012 but being forced into signing the District Attorney Mr. William Higgins Jr. as well as Plaintiff's Court appointed attorney's, and was sent to Sci-Camp Hill, PA. on September 11, 2012. after Plaintiff tried to pull the plea, only 3 days after signing of there plea.
- 32.) During Plaintiff's, evaluation at Camp Hill pa. he told medical Doctor about the Vicious attack From Defendant Mr. Donald Orr Jr. (warden)
- 33.) Plaintiff, began treatment due to the fact of this Vicious attack From Defendant Mr. Donald Orr, Jr. (warden)
- 34.) Plaintiff, has been on medication daily From this Vicious attack From Defendant, Mr. Donald Orr, Jr. (warden).
- 35.) During the week of October 15, 2012, Trooper Jermy Mates From the P.A. State Police Crime investigation unit in Carlisle PA. he interviewed in brief regarding the Vicious attack From Defendant Mr. Donald Orr Jr. (warden) Trooper Jermy Mates informed the Plaintiff the investigation was on going.
- 36.) This Vicious attack From Defendant, Mr. Donald Orr, Jr. (warden) was clearly unprovoked or necessary due to the fact Plaintiff was sleeping at the time.

- 37.) Plaintiff, was Committed to Sci-Graftonford pr. on November the 9th 2012.
- 38.) Plaintiff, Continue Treatment once at Graftonford pr. and is Continuing to date.
- 39.) Plaintiff, is on Various Medication such as Motrin, Ncbumetone, Acetaminophen, ect.
- 40.) Plaintiff, has had Various X-rays along with Blood taken For numerous tests.
- 41.) Plaintiff, has had X-ray-Brain Gelie on February the 5th 2013
- 42.) Plaintiff, has had X-ray-neck and Shoulder on February the 5th 2013.
- 43.) Plaintiff, Continue's on a daily event with all the severe pain Caused by this vicious attack From Defendant, Mr. Donald Orr, AR. (Warden) and is on record at both Sci-Camp Hill pr. and Sci-Graftonford pr. to date.
- 44.) Plaintiff, was also seen at Sci-Graftonford pr. by Psychiatry Doctor Bratton, on February the 7th 2013 From being Traumatized and was placed on Various Medication due to this vicious attack From Defendant, Mr. Donald Orr, AR. (Warden) and was placed on record.

Exhaustion of Legal Remedies

- 45.) Plaintiff, John Lewis MERMOUT SR. was in fact limited to resources, but was able to get a request form available to prisoner's at Bedford County Pa. Correctional Facility to try to resolve this situation, this request was handled by Defendant, Lieutenant Clipper, this request was from Plaintiff asking to speak to Bedford State Police, however this request was during May 2012. this request wasn't answered until the week of October the week of the 15th 2012, when Trooper Jeremy Mates, P.A. State Police Crime investigation unit, came to Sci-Camp Hill, Pa. to interview Plaintiff's request it was approximately five months after filing the original request to the lieutenant, at Bedford County Pa. Correctional Facility, Plaintiff never did speak to Bedford State Police. asking for help from the vicious attack from Defendant, Mr. Donald Orr Jr. (warden)

Legal Claims

- 46.) Plaintiff, was in fact assaulted on May 15, 2012. by Defendant, Mr. Donald Orr Jr. (warden) causing various permanent medical treatment - Head-aches - neck and shoulder pain - chest pains - muscle spasm - night-mares - breathing problems - quivering throat - Ect

permanent mental Trauma. ECT. deliberate indifference to medical needs, Violated Plaintiff John Lewis MERHOLT SR. rights and Constituted a due process Violation Cruel and unusual punishment under the 1, 3, 4, 5, 6, 8, 9, 13 and 14th Amendment to the United States Constitution.

- 47) Plaintiff, John Lewis MERHOLT SR. "pro se" has no plain, adequate or remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the Conduct of the Defendant's unless this Court grants declaratory and injunctive relief which Plaintiff seeks.

Prayer For Relief

wherefore, Plaintiff, John Lewis MERHOLT SR. respectfully prays that this Honorable Court enter Judgment granting Plaintiff:

- 1) A Declaration that the acts and omissions described herein Violated Plaintiff's rights under the Constitution and Laws of the United States.

- 2.) Compensatory damages in the amount of 3.5 million dollars against the County of Bedford pa. 15522 - % Bedford County pa. County Commissioner's office, located at 200. South Guiliana Street, Bedford County Court House, Bedford pa. 15522.
- 3.) * Compensatory damages in the amount of 350,000.00 thousand dollars against the Warden MR. Donald Orr R. Box 37. HYNDMAN, PA. 15545
- 4.) * Compensatory damages in the amount of 350,000.00 thousand dollars against Prime Care medical. % Bedford County pa. County Commissioner's office, located at 200. South Guiliana Street, Bedford County Court House, Bedford pa. 15522.
- 5.) * Compensatory damages in the amount of 100,000.00 thousand dollars against MR. Rowald Leidy, MR. James Baker, LT. Clipper, MR. Eugene D. Downy, % Bedford County Correctional Facility, 425 Intertown Road Bedford County pa. 15522.
- 6.) Plaintiff's Cost in this suit, any additional relief this Court deems just, proper and equitable.

Dated April 22nd 2013.

Respectfully Submitted

John Lewis GERMOLT SR

John Lewis GERMOLT "Pro SE"

D.O.C. # KR-8142

P.O. Box 244

Greterford Pa. 19426

Verification

I have read the foregoing Amended Complaint and hereby verify that the matters alleged therein are true and Correct, as to the matters alleged on the information and belief, I believe them to be true, I Certify under penalty of perjury that the foregoing is true and Correct.

Executed at Montgomery County at

Greterford Pa. on

April 22nd 2013.

(S) John Lewis GERMOLT SR.

John Lewis GERMOLT SR. "Pro SE"

D.O.C. KR-8142